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In re Application of
Toyoshi Kawada, et al.
Application No. 09/468,639
Filed: December 12, 1999
For: PLASMA DISPLAY PANEL DEVICE

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the "Request for Reconsideration of Decision on Petition, Paper No. 23 mailed January 24, 2005" filed February 2, 2005. No fee is required.

This application was held abandoned for failure to timely submit a response to the non-final Office action mailed November 18, 2003. A Notice of Abandonment was mailed June 14, 2004.

Petitioner has alleged non-receipt of the Letter. In the petition filed July 7, 2004, the petitioner has provided a statement that the Office communication was not received by the petitioner and a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. In the "Request for Reconsideration" filed February 2, 2005, petitioner has also provided the necessary statement attesting to a search of the file jacket and docket records indicating that the Office communication was not received.

Pursuant to MPEP § 711.03(c) [See also Notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not received*, 1156 O.G. 53 (November 16, 1993)], in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

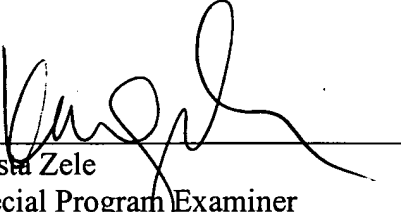
- (a) a statement from the practitioner stating that the Office communication was not received by the practitioner;
- (b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and,
- (c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The showing offered complies with the requirements of a successful petition to withdraw the holding of abandonment due to non-receipt of the Non-Final Office Action as set forth above. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Accordingly, the petition is **GRANTED**.

Due to the time lapse from the previous Office action and this decision, the file will be forwarded to the examiner for updating the search and the Office action as appropriate. The time period for response will be set to run from the mailing date of the new action.



Krista Zele
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Communications